

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Taxi and Limousine Commission (TLC) is considering changing its rules to reduce the risks of fatigued driving by its licensed drivers.

When and where is the Hearing? The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on June 23, 2016. The hearing will be in the hearing room at 33 Beaver Street – 19th Floor, New York, NY 10004.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Mail.** You can mail written comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22nd Floor, New York, New York 10004.
- **Fax.** You can fax written comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email written comments to tlcrules@tlc.nyc.gov.
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules Web site at www.nyc.gov/nycrules.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-676-1135. You can also sign up in the hearing room before the hearing begins. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by Thursday, June 23, 2016.

Do you need assistance to participate in the Hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-676-1135. You must tell us by Friday, June 17, 2016.

Can I review the comments made on the proposed rules? A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Commission to make this rule? Sections 1043 and 2303 of the City Charter and section 19-503 of the City Administrative Code authorize the Commission to make this proposed rule. This proposed rule was not included in the Commission's regulatory agenda

for this Fiscal Year because it was not contemplated when the Commission published the agenda.

Where can I find the Commission's rules? The Commission's rules are in Title 35 of the Rules of the City of New York.

What rules govern the rulemaking process? The Commission must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

STATEMENT OF BASIS AND PURPOSE OF RULES

Commercial drivers' long work hours make them more susceptible than others to fatigued driving. An existing Taxi and Limousine Commission (TLC) rule addresses driver fatigue by limiting the number of consecutive hours that a taxi driver can drive for hire to 12 hours. But the restriction does not apply to for-hire vehicle drivers and is difficult to enforce because a break of any length could reset the clock and allow a driver to comply with TLC rules while working excessive hours. Consistent with Mayor de Blasio's Vision Zero Initiative's emphasis on traffic safety, TLC reviewed the research on fatigued driving with the goal of developing new rules that would apply across its service sectors.

Research conducted by the Centers for Disease Control, the National Highway Traffic Safety Administration (NHTSA), the National Sleep Foundation, and the US Federal Highway Administration concludes that long work hours lead to acute fatigue and reduced sleep, and compounded over a period of days and weeks, may lead to chronic fatigue. For drivers, this means slowed reaction times and a reduced ability to assess situations quickly, potentially leading to driver errors and a higher risk of crashing. In addition to longer working hours being associated with fewer hours of sleep, research has shown that being awake for 18 hours results in impairment equal to blood alcohol concentrations (BAC) of 0.05 (considered driving while under the influence of alcohol in New York State), and being awake for 24 hours results in impairment equal to a BAC of 0.10 (1.25 times the 0.08 threshold for driving while intoxicated). Although the vast majority of TLC-licensed drivers are not driving an excessive number of hours, there is a small segment of drivers who do. Indeed, TLC has heard concerns from passengers that their drivers may have fallen asleep behind the wheel.

The proposed rule seeks to reduce the serious safety risks of fatigued driving by:

- Prohibiting a driver of a taxi or for-hire vehicle from picking up passengers for hire for more than 12 hours in any 24-hour period;
- Prohibiting a driver of a taxi or for-hire vehicle from picking up passengers for hire for more than 72 hours in any seven-day period;
- Resetting the 12-hour clock for a driver after any period in which he or she has gone at least eight consecutive hours without pickups (e.g., a driver who works 10:00 a.m. – 10:00 p.m. on Monday can begin a 12-hour shift on Tuesday as early as 6:00 a.m.); and
- Prohibiting a base from dispatching a driver to do pickups in more than 12 hours in any 24-hour period (unless that base has stopped dispatching the driver to do pickups for eight or more consecutive hours) and prohibiting a base from dispatching a driver to do pickups in more than 72 hours in any seven-day period.

Unlike the current rule, the proposed rule:

- **Addresses acute fatigue.** By prohibiting drivers from operating for hire for more than 12 hours in any 24-hour period, while also accounting for adequate downtime of at least 8 hours, this rule reduces the likelihood that drivers will work more hours than may be safe within one day.
- **Addresses chronic fatigue.** By prohibiting drivers from operating for hire for more than

72 hours in any seven-day period, the rule reduces the likelihood that drivers and the public will face additional safety risks associated with working long hours over many days without time for the body to recuperate. Drivers who like long shifts could work up to six 12-hour shifts in a week but would need to rest one day a week. Most drivers do not work full 12-hour shifts and work shorter shifts. These drivers could still work every day so long as the total number of hours worked per week does not exceed 72.

- **Provides flexibility for different shift types.** The proposed rule maintains the ability for drivers to work twelve-hour shifts, a standard shift length in the taxi industry for decades, while also creating a standard that is flexible enough for drivers of any vehicle type who work less regular or “split shift” schedules.
- **Fights fatigue in both taxi and for-hire vehicle sectors.** By applying to both taxi and for-hire vehicle drivers, this rule ensures the public and drivers have the same protections regardless of the service sector.
- **Reflects cross-sector driver mobility.** This rule applies uniformly across sectors to address drivers who move back and forth between taxis and for-hire vehicles, a practice that may become more common as TLC implements a new “universal” driver’s license for use in both taxis and for-hire vehicles.

The proposed daily and weekly limits fall within a range of limits in place for professional drivers in other jurisdictions:

- In any 24-hour period, Chicago and Nevada taxi drivers may drive no more than 12 hours; Philadelphia taxi and limousine drivers may drive no more than 14 hours; and Los Angeles for-hire drivers may drive no more than 10 hours. Nationally, interstate truck and bus drivers may drive no more than 11 and 10 hours, respectively.
- In any seven-day period, interstate truck and bus drivers may drive no more than 60 hours; Los Angeles for-hire drivers may drive no more than 70 hours; Minneapolis taxi drivers may drive no more than 72 hours; and Philadelphia and Chicago for-hire drivers may drive no more than 84 hours.

The limits on driver hours are supported by data on TLC-licensed drivers, as well as by best practices and scientific research. Over 2014 and 2015, the crash rate of taxi drivers working more than 12 hours in a day was 23.8 percent higher than for those who worked 12 or fewer hours in a day. Over the same two-year period, the crash rate of taxi drivers working more than 72 hours in a week was 8.6 percent higher than for those who worked 72 or fewer hours in a week. Moreover, the Institute of Medicine classifies transportation as a safety-sensitive industry, and work hours for professional drivers (e.g., truck drivers, aviation workers) have been regulated by the US Department of Transportation since the 1930s. NHTSA reports that fatigue impairs performance of repetitive tasks, such as driving, by reducing vigilance, slowing reaction time and creating deficits in information processing. Engineers at the University of North Florida studied bus drivers and found that more collisions occurred with an increase in weekly driving hours. The American Automobile Association Foundation reports that fatigued drivers are involved in 20 percent of fatal crashes nationally.

The population of TLC-licensed drivers affected by the limits in the proposed rule is small: only three percent of drivers for hire in New York City typically drive more than 12 hours per day and less than seven percent typically drive more than 72 hours in a week. Therefore most drivers would not need to modify their working hours to comply with these rules. There is a small population of drivers whose current hours put them most at risk for fatigued driving and for whom it is particularly important to reduce working hours: the roughly one percent of drivers who drive more than 14 hours in a day and the three percent who exceed 80 hours in a week.

To enforce the proposed rule, TLC will review trip records submitted by Medallion and Boro Taxis, as well as for-hire vehicle bases, to calculate the hours in which a driver is picking up passengers in any 24-hour or seven-day period. Trips by a driver who accepts dispatches from multiple bases, or who operates both taxis and for-hire vehicles, will be combined to determine the total number of hours worked. Bases will only be responsible for trips that they dispatch, not dispatches that their affiliated drivers accept through other bases or street hails accepted by Boro Taxis (e.g., if Base A dispatches a driver to do pickups for nine hours in a 24-hour period and Base B dispatches a driver to do pickups for an additional six hours in the same 24-hour period, then only the driver is in violation of the daily limit, not the two bases).

Given the wide range of driving schedules among the more than 140,000 TLC-licensed drivers in New York City, it is important to create clear, consistent, and enforceable rules. This proposed rule will serve as one of many tools for the TLC to combat the complex challenge of driver fatigue. In addition to broad-based outreach to licensees to explain these rules, TLC will expand its current driver education and training materials to include strategies to combat driver fatigue, including the benefits of breaks and the importance of getting adequate rest. By drawing on all of these tools, TLC seeks to ensure that drivers have enough time to rest prior to transporting passengers for hire and thus help move the city a step closer to achieving Vision Zero.

This rule is authorized by Section 2303 of the New York Charter and Section 19-503 of the Administrative Code.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 51-03 of Title 25 of the Rules of the City of New York is amended by adding the definition of “Associated Base”, in alphabetical order, to read as follows:

Associated Base is a For-Hire Base using the same name or trade, business, or operating name as another For-hire Base.

Section 2. Subdivision (d) of section 54-14 of Title 25 of the Rules of the City of New York is amended to read as follows:

- (d) *Limits on [Consecutive] Hours of Driving.* [A Driver must not operate a Vehicle for more than 12 consecutive hours.]

- (i) A Driver must not pick up passengers for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Driver picks up no passengers for hire for at least eight consecutive hours, the 12-hour clock resets and such Driver may resume picking up passengers for hire.
- (ii) A Driver can pick up passengers for hire in no more than 72 hours in total in any seven-day period.

§54-14(d)	<p><u>[\$25] Hours above daily or weekly limit:</u></p> <p><u>1-2: \$75</u></p> <p><u>3-4: \$175 if plead guilty before hearing; and \$250 if found guilty following a hearing.</u></p> <p><u>5 or more: \$300 if plead guilty before hearing; and \$400 if found guilty following a hearing.</u></p> <p><u>If guilty of two or more violations during the past year for exceeding the daily or weekly limit by three or more hours, penalty shall also include a suspension of 15 days.</u></p>	Appearance NOT REQUIRED
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Note: For purposes of determining whether a Driver is in violation of this Rule, any pickups that a Driver makes while operating a Vehicle pursuant to this Chapter will be combined with any pickups such Driver makes while operating a Vehicle pursuant to Chapter 55.

Section 3. Section 55-14 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (i), to read as follows:

(i) Limits on Hours of Driving.

- (i) A Driver must not pick up passengers for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Driver picks up no passengers for hire for at least eight consecutive hours, the 12-hour clock resets and such Driver may resume picking up passengers for hire.
- (ii) A Driver can pick up passengers for hire in no more than 72 hours in total in any seven-day period.

§55-14(i)	<p><u>Hours above daily or weekly limit:</u></p> <p><u>1-2: \$75</u></p> <p><u>3-4: \$175 if plead guilty before hearing; and \$250 if found guilty following a hearing.</u></p> <p><u>5 or more: \$300 if plead guilty before hearing; and \$400 if found guilty following a hearing.</u></p> <p><u>If guilty of two or more violations during the past year for exceeding the daily or weekly limit by</u></p>	<u>Appearance NOT REQUIRED</u>
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	<u>three or more hours, penalty shall also include a suspension of 15 days.</u>	
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Note: For purposes of determining whether a Driver is in violation of this Rule, any pickups that a Driver makes while operating a Vehicle pursuant to this Chapter will be combined with any pickups such Driver makes while operating a Vehicle pursuant to Chapter 54.

Section 4. Section 59B-18 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (e), to read as follows:

- (e) *Limits on Hours of Driving.*
 - (i) A Base or Associated Base must not dispatch a Driver to pick up passengers for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Base or Associated Base does not dispatch a Driver to pick up passengers in at least eight consecutive hours, the 12-hour clock resets and such Base or Associated Base can resume dispatching such Driver to pick up passengers for hire.
 - (ii) A Base or Associated Base must not dispatch a Driver to pick up passengers for hire in more than 72 hours in total in any seven-day period.

<u>§59B-18(e)</u>	<u>\$200</u>	<u>Appearance NOT REQUIRED</u>
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